



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

June 16, 2003

S. 413

Asbestos Claims Criteria and Compensation Act of 2003

As introduced on February 13, 2003

Under current law, around 2 percent to 3 percent of all cases filed in federal court are related to asbestos exposure. S. 413 would establish medical criteria for a cause of action in personal injury and wrongful death claims arising out of asbestos exposure. Specifically, individuals without malignant conditions would need to demonstrate specific impairments to pursue asbestos claims. Based on information about the number of asbestos claims filed by individuals with nonmalignant conditions, CBO expects that enacting S. 413 would eventually reduce the number of asbestos cases filed in federal court by about half.

Based on information from the Administrative Office of the United States Court, we estimate that, once the bill's provisions are fully implemented, the cost to the federal courts for court support staff could be reduced by about \$5 million each year, subject to appropriation actions. (About \$500 million was appropriated to the federal court system in 2003 for administrative support staff). S. 413 would not affect the number of judges authorized; therefore, implementing the bill would not affect direct spending. Enacting the bill also would not affect revenues.

S. 413 would preempt certain state law related to statutes of limitation and civil actions in asbestos litigation. Such preemptions are intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA); however, CBO expects that they would not impose significant costs on state, local, or tribal governments. The threshold for intergovernmental mandates (\$59 million in 2003, adjusted annually for inflation) thus would not be exceeded.

S. 413 would create a new private-sector mandate for certain individuals filing claims for compensation for injuries caused by exposure to asbestos. The bill would prohibit an individual from bringing or maintaining a civil action alleging nonmalignant injury due to asbestos exposure without specified types of medical evidence of physical impairment. The prohibition would apply to any civil action asserting an asbestos claim in which a trial has not commenced as of the date of enactment.

The direct cost of the mandate on individuals who could not show physical impairment would be the net value of damages (settlements and judgments) that would be awarded under current law that would be precluded or postponed under S. 413. Because comprehensive data relating to asbestos exposure, litigation, and compensation are not available, a great amount of uncertainty exists in predicting the number of claimants who would receive compensation and the amount of the settlements they would receive under current law. Based on information from academic, industry, and other sources, CBO concludes that it is likely that the total direct cost to the private sector of complying with the mandate would exceed the annual threshold established in UMRA (\$117 million in 2003, adjusted annually for inflation) during the first five years the mandate is in effect.

Some provisions of the bill would have beneficial effects for certain claimants and defendants. The bill would toll (suspend) the statute of limitations for certain asbestos injuries. Moreover, individuals who file an asbestos claim arising out of a nonmalignant condition would also be able to file a separate claim to seek compensation if asbestos-related cancer develops at a later date. Such claims for the “second disease” related to asbestos exposure are not often allowed under current law. The bill also would benefit asbestos defendants by reducing the number of claims filed against them.

The CBO staff contacts for this estimate are Lanette J. Walker (for federal costs), Theresa Gullo (for the state and local impact), and Paige Piper/Bach (for the private-sector impact). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.